

Application No.: 09/847,945
Filing Date: May 2, 2001
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Attorney Docket No.: ABI1460-3
(071243-1317)

Remarks

The present invention relates to compositions containing a drug coated with a protein, and methods for treating hyperplasia using these compositions.

By the present communication, the specification is amended to reflect a claim of priority to February 22, 1993. Thus, a Petition to Accept an Unintentionally Delayed Domestic Priority Claim under 37 C.F.R. §1.78(a)(3) is submitted herewith, along with a supplemental Oath and Declaration (an unexecuted copy of which is enclosed herewith for the Examiner's convenience; fully executed copy to be provided in due course), to claim the benefit of the earlier-filed application.

Claims 1-30 remain pending in this application. The present status of all claims in the application is provided in the listing of claims presented herein on pages 3-6.

Rejection of Claims 18, 20-25 and 26-30 under 35 U.S.C. §102(b) over Grinstaff

The rejection of claims 18, 20-25 and 26-30 under 35 U.S.C. §102(b), as allegedly being anticipated by U.S. Patent No. 5,498,421, issued to Grinstaff et al. (hereinafter referred to as "Grinstaff") is respectfully traversed. It is respectfully submitted that this rejection has been rendered moot by the amendments submitted herewith. Thus, the present application, as amended herewith, claims priority to U.S. Patent No. 5,439,686, issued to Desai et al., which has priority to February 22, 1993, which is the same priority date to which Grinstaff is entitled (see, Table 1).

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TABLE 1

Priority of the Present Application	
U.S. Appl. No. 09/847,945	May 2, 2001
U.S. Appl. No. 09/446,783	May 16, 2000
PCT/US98/13272	June 26, 1998
U.S. Appl. No. 08/926,155 (U.S. Pat. No. 6,096,331)	September 9, 1997
U.S. Prov. Appl. No. 60/051,021 (abandoned)	June 27, 1997
U.S. Appl. No. 08/720,756 (U.S. Pat. No. 5,916,596)	October 1, 1996
U.S. Appl. No. 08/485,448 (U.S. Pat. No. 5,665,382)	June 7, 1995
U.S. Appl. No. 08/412,726 (U.S. Pat. No. 5,560,933)	March 29, 1995
U.S. Appl. No. 08/200,235 (U.S. Pat. No. 5,498,421)	February 22, 1994
U.S. Appl. No. 08/035,150 (U.S. Pat. No. 5,362,478)	March 26, 1993
U.S. Appl. No. 08/023,698 (U.S. Pat. No. 5,439,686)	February 22, 1993

Accordingly, Grinstaff is not prior art to the present claims. Reconsideration and withdrawal of this rejection are, therefore, respectfully requested.

Rejection of Claims 1-15 and 17-30 under 35 U.S.C. §103(a) over Kunz and Grinstaff

The rejection of claims 1-15 and 17-30 under 35 U.S.C. §103(a), as allegedly being obvious over U.S. Patent No. 5,733,925, issued to Kunz et al. (hereinafter referred to as "Kunz") in view of Grinstaff is respectfully traversed.

Applicant's invention, as defined by claims 1-15 and 17-30, distinguishes over Kunz by requiring methods for treating hyperplasia using compositions containing a drug coated with a protein.

As acknowledged by the Examiner, Kunz does not teach a protein coated active agent. Indeed, Kunz does not teach or suggest any methods using such compositions.

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Grinstaff cannot cure the acknowledged defects of Kunz because Grinstaff is not prior art to the present claims (*supra*).

It is respectfully submitted that a *prima facie* case of obviousness has not been established. Accordingly, reconsideration and removal of this rejection are respectfully requested.

Rejection of Claim 16 under 35 U.S.C. §103(a) over Kunz, Grinstaff and Li

The rejection of claim 16 under 35 U.S.C. §103(a), as allegedly being obvious over Kunz in view of Grinstaff, and further in view of U.S. Patent No. 5,977,163, issued to Li et al., based on Provisional application No. 60/013,184, having a priority date of March 12, 1996 (hereinafter referred to as "Li"), is respectfully traversed.

Applicant's invention, as defined by claim 16, distinguishes over Kunz by requiring methods for reducing neointimal hyperplasia associated with vascular interventional procedure(s), by deployment of a stent containing at least one drug coated with a protein thereon.

As acknowledged by the Examiner, Kunz does not teach coating a stent with a drug. Indeed, Kunz does not teach or suggest any methods using such stents and compositions.

Neither Grinstaff nor Li can cure the acknowledged defects of Kunz because neither Grinstaff nor Li are prior art to the present claims.

It is respectfully submitted that a *prima facie* case of obviousness has not been established. Accordingly, reconsideration and removal of this rejection are respectfully requested.

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Conclusion

In view of the above amendments and remarks, prompt and favorable action on all claims is respectfully requested. In the event any matters remain to be resolved in view of this communication, the Examiner is encouraged to call the undersigned so that a prompt disposition of this application can be achieved.

Respectfully submitted,

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